UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,723	12/30/2003	Christopher Robert Dale Wilson	33331-US-CIP3 (85801_CIP3	7524

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EXAMINER
NGUYEN, QUANG N

ART UNIT	PAPER NUMBER
2441	

NOTIFICATION DATE	DELIVERY MODE
12/08/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _01 December 2008_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _24,25,27,28,39,40,42-49,51-55 and 65-69_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _24,25,27,28,39,40,42-49,51-55,65 and 69_ is/are rejected.
7)☒ Claim(s) _66-68_ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

Detailed Action

1.   This Office Action is responsive to the Amendment filed on 12/01/2008. Claims

24-25, 39-40, 42-49, 51-55, 65-67 and 69 have been amended. Claims 1-23, 26, 29-38,

41, 50 and 56-64 have been canceled. Claims 24-25, 27-28, 39-40, 42-49, 51-55 and

65-69 remain pending.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

12/01/2008 has been entered.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.　　Claim 24-25, 27-28, 39-40, 42-49, 51-55, 65 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable by McConnell et al. (US 2003/0149774 A1), hereinafter "McConnell", in view of Knauerhase (US 2003/0023691 A1).

5.　　As to claim 24, **McConnell** teaches a method of messaging between a wireless mobile terminal operating on a wireless carrier network and a networked computer on a landline network, the method comprising:

starting a client on a device selected from the group including the wireless mobile terminal *(i.e., Mobile Station MS 48)* and the networked computer *(i.e., the networked computers A, B and C as in Fig. 3)*, the client for communicating messages in a push-to-talk (PTT) mode **(McConnell, paragraphs [0051-0054])**;

the client sending a login message to a server *(i.e., an application server such as PTT server 68, IM server 70, or VM server 72)* located outside of the wireless carrier network, the server communicating with the client by way of a packet network *(i.e., by way of IP network 50 as in Fig. 3)* **(McConnell, paragraphs [0051-0054] and [0068])**;

the server establishing a communication session with the client in response to receiving the login message *(i.e., in response to receiving the service request from the MS 48, the application server might be setting up and facilitating a group communication, such as a PTT session, or multicasting an instant message, or prompt for and record a voice message)* **(McConnell, paragraphs [0042] and [0051-0054])**;

at the device, selecting at least one recipient for a PTT message, the at least one recipient including the other device from the group including the wireless mobile terminal and the networked computer *(i.e., a user of MS 48 invokes a communication application on MS 48, seeking to establish communication session over IP network 50 with a user operating networked terminal B)* **(McConnell, paragraphs [0072-0075] and [0080])**;

sending the PTT message to the server by way of the packet network using a PTT function provided by the client *(i.e., a user of MS 48 invokes a PTT application to set up the PTT session between the communicating entity MS 48 and entities A, B and C)* **(McConnell, paragraphs [0072-0075])**; and

the server selectively forwarding the PTT message to the at least one recipient that is available **(McConnell, paragraphs [0072-0079])**, and based on the respective availability of the at least one recipient, storing the PTT message for later delivery to an unavailable recipient **(McConnell, paragraphs [0004], [0064-0065] and [0080-0084])**, and the server also forwarding the PTT message to an external email system for delivery to the unavailable recipient *(i.e., based on the contents of the message and/or other factors such as the availability of the recipient, the service agent might proxy/forward to an appropriate application server such as PTT server 68, IM server 70 and/or VM server 72 **(McConnell, paragraph [0056])**, wherein the three services: PTT service, IM service and VM service being used as examples, and without limitation, wherein the particular services carried out by application server 16 can also take any of*

variety of forms, as well-known to one of ordinary skill in the art, such as an email

service) **(McConnell, paragraphs [0004] and [0042])**.

McConnell does not explicitly teach determining availability of the at least one

recipient to currently receive the PTT message.

In the same field of endeavor, **Knauerhase** teaches a system and method for

routing a message based on the accessibility ("reachability" and "availability") of an

intended recipient's associated communication channels (e.g., email, instant message,

cell, landline, etc.), wherein <u>a discovery component may seek to determine, and</u>

<u>continuously or periodically update, the accessibility state of each of a recipient's</u>

<u>potential communications channels</u> *(i.e., determining availability of the at least one*

recipient to currently receive the PTT message) by checking with (external) email server

and IM server connected to the Internet to see if a user/recipient is currently available

via the associated email or IM system **(Knauerhase, paragraphs [0016-0020])**. If it is

determined that the at least one of the recipient's communication channels is both

reachable and available, the process uses a direct connection, if available to send the

message *(i.e., if the recipient is currently available via the associated email*

system/server, the message will be forwarded to the email system/server for delivery to

the recipient) **(Knauerhase, paragraph [0043])**.

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to incorporate the feature of determining the availability

of each of the recipients to currently receive the (PTT) message and enabling a sender

to send a message to a recipient's identity rather than one or more devices associated with the recipient, as disclosed by **Knauerhase**, into the teachings of **McConnell**.

One would be motivated to do so to allow the system to optimally and intelligently route the message to the recipient over one or more communication channels based on presence information, as a result, messages may be addressed and routed to recipients with dramatically increased ease, flexibility, and/or situational appropriateness **(Knauerhase, paragraph [0014])**.

6.   As to claim 25, **McConnell-Knauerhase** teaches the method of claim 24, wherein the PTT message is selected from a group including a voice message, a text message, and a combination of the foregoing **(McConnell, paragraphs [0004] and [0042])**.

7.   As to claim 27, **McConnell-Knauerhase** teaches the method of claim 24, further comprising the server forwarding the PTT message to an external instant messaging (IM) system **(McConnell, paragraphs [0004] and [0042])**.

8.   As to claim 28, **McConnell-Knauerhase** teaches the method of claim 24, wherein the PTT message includes streaming voice *(i.e., nowadays, electronic devices such as mobile phones, PDAs and the like, are capable of communicating voice, data, images, video and other multimedia content, wherein streaming voice is a form of multimedia content)* **(McConnell, paragraphs [0004], [0039] and [0042])**.

9.   Claims 39-40 and 42-44 are corresponding computer program product claims that do not recite or define any new limitations above method claims 24-25 and 27-28; therefore, they are rejected under the same rationale.

10.   Claims 45-49 are corresponding wireless terminal claims that do not recite or define any new limitations above method claims 24-25 and 27-28; therefore, they are rejected under the same rationale.

11.   Claims 51-55 recite networked device *(i.e., networked terminals A, B, or C)* claims that contain similar limitations as wireless mobile terminal *(i.e., Mobile Station MS 48)* claims 45-49; therefore, they are rejected under the same rationale.

12.   Claim 65 is a corresponding system claim that does not recite or define any new limitations above claim 24; therefore, it is rejected under the same rationale.

13.   As to claim 69, **McConnell-Knauerhase** teaches the method of claim 24, further comprising the client periodically sending a keep-alive message to the server for maintaining as active the communication session between the server and the client *(Official Notice taken here that it's obvious to one of ordinary skill in the art that the mobile/client device periodically sends a keep-alive (ping) message to the server to maintain the communication session active)*.

Allowable Subject Matter

14.   Claims 66-68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

15.   Applicant's arguments as well as request for reconsideration filed on 12/01/2008 have been fully considered but they are moot in view of the new ground(s) of rejection.

16.   Further references of interest are cited on Form PTO-892, which is an attachment to this Office Action.

17.   A shortened statutory period for reply to this action is set to expire THREE (3) months from the mailing date of this communication. See 37 CFR 1.134.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (571) 272-3886.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharia, can be reached at (571) 272-3880. The fax phone number for the organization is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang N. Nguyen/
Primary Examiner, Art Unit 2441